

REMARKS

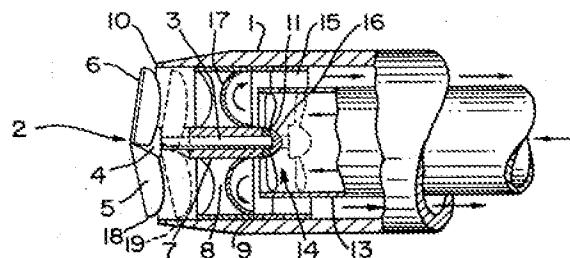
The present Office Action addresses and rejects claims 1-25.

Rejections Pursuant to 35 U.S.C. § 102

Claims 1, 5-7, 10-16, and 22-25 are rejected pursuant to 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,195,956 of Stockmeier (“Stockmeier”). Applicants respectfully disagree.

Independent claim 1 recites a tissue extraction and maceration device that includes an outer tube having an open distal end adapted to be placed on a tissue surface, and a shaft rotatably disposed within the outer tube. The shaft is movable between a first, proximal position in which the shaft is fully disposed within the outer tube, and a second, distal position in which a portion of a distal end of the shaft extends through the opening in the distal end of the outer tube. Claim 1 also recites a tissue harvesting tip formed on the distal end of the shaft and effective to excise a tissue sample, and a cutting member coupled to the shaft at a position proximal to the tissue harvesting tip and effective to macerate a tissue sample excised by the tissue harvesting tip.

Stockmeier is directed to a medical catheter with a single cutting device, and lacks any teaching of both a harvesting tip for excising a tissue sample and a cutting member coupled to a shaft at a position proximal to the tissue harvesting tip, as required by claim 1. The Examiner argues that the hub and cutting tool (4,5) is a tissue harvesting tip and that the turbine (14) is a cutting member. (See Stockmeier, FIG. 2, reproduced below).



The turbine (14), however, does not form a cutting member as it is merely a motor for rotating the hub and cutting tool (4,5). In fact, the turbine (14) does not even come into contact with tissue cut by the cutting tool (5) because it is fully contained within a second tube (13). A fluid under pressure is applied to the turbine (14) such that the turbine (14) hydraulically drives the cutting tool (5), thereby enabling the cutting tool (5) to cut obstructions in a blood vessel. (Col 1, lns. 41-45; Col. 2, lns 31-36). Stockmeier in no way teaches or suggests that the turbine (14) is effective to macerate a tissue sample excised by the cutting tool (5), as required by the cutting member recited in claim 1.

Accordingly, independent claim 1, as well as claims 5-7, 10-16, and 22-25 which depend therefrom, therefore distinguish over Stockmeier and represent allowable subject matter.

Rejections Pursuant to 35 U.S.C. §103

Dependent claims 2-3, 4, 8-9, 17-20, and 21 are rejected pursuant to 35 U.S.C. §103(a) as being obvious over Stockmeier in view of one of various references set forth in the Office Action. Applicants respectfully disagree.

As explained above, Stockmeier is deficient as a reference for several reasons, and thus independent claim 1, and the claims dependent therefrom, distinguish over Stockmeier. The remaining cited references fail to cure the deficiencies of Stockmeier as none of the references teach or even suggest both a harvesting tip and a cutting member. Rather, the references are merely relied on to disclose distinct features recited in the dependent claims. Accordingly, claims 2-3, 4, 8-9, 17-20, and 21 are allowable at least because they depend from an allowable base claim.

Application Ser. No.: 10/661,460
Filing Date: September 11, 2003
Examiner: Jeffrey G. Hoekstra
Group Art Unit: 3736
Atty. Docket No.: 22956-223 (MIT-5016)

Conclusion

Applicant submits that all claims are in condition for allowance, and allowance thereof is respectfully requested. The Examiner is encouraged to telephone the undersigned attorney for Applicants if such communication is deemed to expedite prosecution of this application.

Respectfully submitted,

Date: December 13, 2006

/Lisa Adams/

Lisa Adams, Reg. No. 44,238
Attorney for Applicant(s)

Nutter McCennen & Fish LLP
World Trade Center West
155 Seaport Boulevard
Boston, MA 02210
Tel: (617)439-2550
Fax: (617)310-9550

1582573.1